

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20054

In the Matter of )  
Policies and Rules Concerning )  
Unauthorized Changes of )  
Consumers' Long Distance Carriers )

CC Docket No. 94-129

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COMMENTS OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

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TABLE OF CONTENTS

I.	NARUC'S INTEREST . . . . .	1
II.	BACKGROUND . . . . .	3
III.	DISCUSSION . . . . .	4
	A. The FCC must assure that an IXC submitting a PIC change request remains responsible for all charges associated with the requested change in IXC service and the customer's return to his original PIC if (i) that customer denies granting authorization and the (ii) IXC cannot produce records or a LOA supporting its actions <sup>5</sup>	
	B. The FCC should develop a standard for PIC changes . .	6
IV.	CONCLUSION . . . . .	7
V.	APPENDIX A {NARUC'S SLAMMING RESOLUTION} . . . . .	9
VI.	CERTIFICATE OF SERVICE . . . . .	11

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Pursuant to Sections 1.415 and 1.419 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. Sections 1.415, 1.419 (1994), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully submits the following initial comments addressing the Commission's "Notice of Proposed Rulemaking" ("NPRM"), adopted November 10, 1994 (FCC 94-292) in the above captioned proceeding:

NARUC is a quasi-governmental nonprofit organization founded in 1889. Members include the governmental bodies engaged in the regulation of carriers and utilities from all fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. NARUC's mission is to improve the quality and effectiveness of public utility regulation in America.

Specifically, NARUC is composed of, inter alia, State and territorial officials charged with regulating telecommunications common carriers within their respective borders. In that capacity, those officials must assure that telecommunications services and facilities required by the public convenience and necessity are established, and that service is provided at just and reasonable rates.

In March of 1990, in response to an earlier FCC docket on slamming, NARUC endorsed the idea of requiring written customer notification of any changes in service in its **Resolution Regarding Slamming**. The resolution was adopted by the Executive Committee of the NARUC on March 1, 1990, and is attached as Appendix A. NARUC uses the term "slamming" to refer to the unauthorized switching of the customer's PIC of choice. Based on this resolution, NARUC filed comments in that proceeding which detailed a proposal requiring some form of written notification to verify any change in a customer's PIC of choice.

## II. BACKGROUND

The FCC's Allocation Order, and subsequent Waiver and Reconsideration Order established the rules for implementing presubscription to an interexchange carrier ("IXC"). The orders required the IXC to solicit from the customer and retain a Letter of Authorization ("LOA") indicating that customer's desire to use its services. Allocation Order, Appendix B. 101 FCC 2nd at 929.

Originally, each IXC had to have the LOA on file before submitting a change in IXC service order to the Local Exchange Carrier ("LEC") serving that customer. However, in the face of vigorous opposition by various IXCs, including American Telephone and Telegraph Company ("AT&T"), the FCC allowed the IXC to submit change orders if that IXC had "...instituted steps designed to obtain signed..[LOAs]." Waiver Order, 101 FCC 2nd at 942. Subsequently, AT&T petitioned, on January 10, 1990, asking the FCC "to require that ...[IXCs]...obtain written customer authorization before submitting primary interexchange carrier ("PIC") selections and changes to..[LECs]." Subsequently, in response to a December 11, 1990 settlement proposal, the FCC approved somewhat elaborate system of safeguards designed to prevent slamming, that included the option of getting a signed LOA before submitting a service change request.

Subsequently, in November of last year, citing over 4,000 complaints received in the last two years, the FCC opened this docket asking for comments on ways to improve its slamming rules. To further protect consumers from misleading inducements to sign LOA's, the Commission has proposed to require (1) that LOAs be separate from other promotional or inducement materials; (2) that the LOAs be limited strictly to authorizing a change in long distance carriers; and (3) that they be clearly identified as an LOA.

Further, the Commission has proposed that the language in the LOA be clear and unambiguous and that the print be of sufficient size and readable style to be clear to the consumer that the document, if signed, would change his or her long distance company.

Finally, the Commission seeks comment on several other issues pertaining to unauthorized changes of consumers' long distance companies that have come to its attention as a result of consumer complaints. For example, comments are requested concerning: (1) whether and to what extent consumers should be liable for the long distance telephone charges billed to them by the unauthorized carrier; and (2) whether all LOAs should be captioned "An Order to Change My Long Distance Telephone Service Provider" or a similar title that makes it clearer to consumers that the LOA authorizes a change in their long distance service.

### **III. DISCUSSION**

NARUC acts through resolutions adopted at triennial meetings. Because the FCC instigated this docket basically in the middle of NARUC's November 1994 annual convention and comments are due before our next meeting in February, 1995, NARUC was unable to adopt a resolution to address the specifics of this new FCC proposal. Nonetheless, there are some general principles in our 1990 resolution that form the basis of the comments below.

- A. The FCC must assure that an IXC submitting a PIC change request remains responsible for all charges associated with the requested change in IXC service and the customer's return to his original PIC if (i) that customer denies granting authorization and the (ii) IXC cannot produce records or a LOA supporting its actions.

In Paragraph 17 of the NPRM, the FCC seeks comment on:

"...whether any adjustments to long distance telephone charges should be made for consumers who are the victims of unauthorized PIC conversions. Specifically, we seek comment on whether consumers should be liable for the long distance telephone charges billed to them by the unauthorized IXC and if so, to what extent."

NARUC's 1990 resolution urges the "...FCC to rule on this matter in a way which...imposes the cost and penalties of error or fraud upon the offending party."

Accordingly, to better protect consumers, NARUC agrees that the FCC should modify its rules to assure that an IXC responsible for an erroneous or fraudulent change in service will continue to bear the costs of both the original change in service and the costs of restoring the customer's PIC of choice. It seems obvious that, at a minimum, such costs should include any excess over the rates charged by the customer's chosen carrier.

IXCs should be able to avoid such charges only if they can produce an adequate LOA or NARUC's suggested presubscription form. As an additional prophylactic measure, the FCC should also consider developing penalties for IXCs that "slam" consumers.

**B. The FCC should develop a standard for PIC changes.**

In paragraph 10 of the NPRM, the FCC -

"...restates and organizes the LOA requirements of the Allocation Order and the PIC Verification Order into one standard rule. We propose that the LOA contain clear and unambiguous language that confirms: (1) the customer's billing name and address and each telephone number covered by [\*12] the PIC change order; (2) the customer's decision to replace his or her current PIC with the IXC soliciting the LOA; (3) the customer's designation of the IXC to act as the customer's agent for the PIC change; (4) the customer's understanding that only one IXC may be designated as the customer's PIC; and (5) the customer's understanding that any PIC selection he or she makes may lead to a PIC change charge for the customer.

NARUC's 1990 resolution suggests that:

That a standard presubscription form be developed which has at least the following minimum information concerning the changes to be requested: the current primary interexchange carrier's name; the name of the requested PIC of choice; a complete listing of any terms, conditions or charges that will be incurred; the name of the person ordering the change; the name, address and telephone number of the customer and requested carrier of choice; and a copy of the form should be supplied to the customer by the IXC within three business days.

It is apparent that this resolution supports the FCC establishment of a standard form that details the minimum requirements listed - as many of the commentators suggested.<sup>1</sup> In most instances, the FCC's proposed changes mirror or build upon the 1990 NARUC suggestions.

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<sup>1</sup> See, e.g., GTE Service Corporation Comments at 3-4; NYNEX Telephone Comments at 2, Pacific Bell and Nevada Bell Comments at 1-2; Southwestern Bell Telephone Company at 2.



NARUC continues to support its proposal that the IXC supply a customer requesting a change in PIC with a written verification within three business days of the request. This system would protect against "slamming" while keeping the changeover process simple for consumers.

As discussed earlier, as part of this system, any IXC responsible for a fraudulent or erroneous changeover should have to bear the financial and administrative burden of correcting the problem.

Since the bulk of the equal access conversion process has been completed, the incidence of unauthorized changeovers has increased significantly. As a result, the FCC should change its rules to standardize the conversion process in a way that will make it less likely that a customer's PIC of choice will be changed without authorization. Any such rule change should be sensitive to the needs of consumers and competing toll carriers.

### III. CONCLUSION

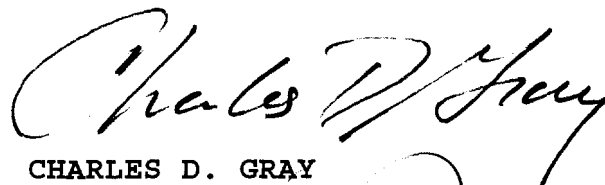
NARUC resolution suggests that a standard form, particularly is used in the fashion detailed in our resolution, will provide an appropriate level of protection. In addition, irrespective of the rules ultimately adopted, the FCC should impose upon any IXC responsible for an erroneous or fraudulent conversion any costs or penalties resulting from the conversion.

NARUC respectfully requests that the Commission carefully examine and give effect to these comments.

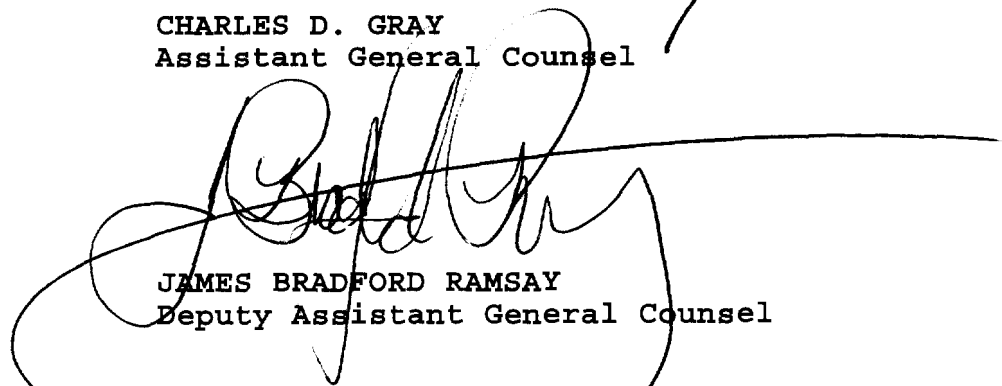
Respectfully submitted,



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APPENDIX A

NARUC'S MARCH 1, 1990 RESOLUTION  
REGULATION REGARDING "SLAMMING"

Resolution Regarding "Slamming"

WHEREAS, Local exchange carriers (LECs) as part of divestiture were required to provide equal access to interexchange carriers (IXCs) for use of local bottleneck facilities; and

WHEREAS, The provision of equal access allows customers, when making long distance calls, to choose which IXC will handle the call; and

WHEREAS, To facilitate implementation of equal access, customers had only to give verbal approval to allow an IXC to request the LEC to change the customer's primary interexchange carrier (PIC) of choice; and

WHEREAS, Some carriers have been requesting that customers' PIC of choice be changed without the customers' authorization; and

WHEREAS, AT&T petitioned the Federal Communications Commission (FCC), to establish a rule which would require IXCs to obtain written permission from the customer prior to requesting a LEC to change the customers PIC; and

WHEREAS, Written customer notification of any changes in service should be required; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC) assembled at its 1990 Winter Committee Meeting in Washington, D.C., urges the FCC to rule on this matter in a way which expedites the selection of IXCs and which imposes the cost and penalties of error or fraud upon the offending party; and be it further

RESOLVED, That a standard presubscription form be developed which has at least the following minimum information concerning the changes to be requested: the current primary interexchange carrier's name; the name of the requested PIC of choice; a complete listing of any terms, conditions or charges that will be incurred; the name of the person ordering the change; the name, address and telephone number of the customer and requested carrier of choice; and a copy of the form should be supplied to the customer by the IXC within three business days.

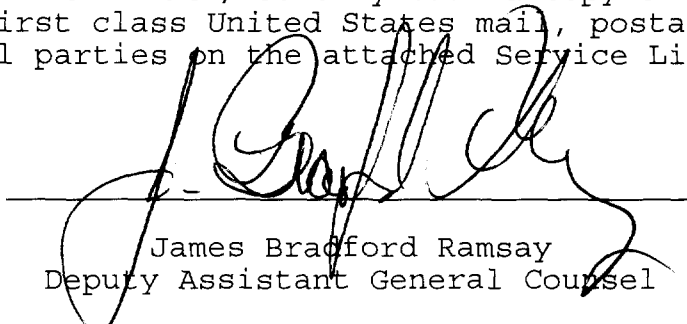
Sponsored by the Committee on Administration.  
Adopted by the Executive Committee March 1, 1990.

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CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that a copy of the foregoing  
was sent by first class United States mail, postage prepaid, to  
all parties on the attached Service List.



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